THE HON'BLE Mr. JUSTICE N.V. RAMANA

Writ Petition No.2806 of 2000

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Dated: December 8, 2005

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Between:

T.V.R. Anjaneyulu, S/o. T.V. Narayana,

aged 34 years, Conductor, APSRTC,

Rayachoti Depot, Cuddapah,

Cuddapah District.

… Petitioner

And

The Depot Manager, APSRTC,

Rayachoti Depot, Cuddapah,

Cuddapah District, and another.

… Respondents

Order:

Petitioner, by this writ petition, seeks Mandamus declaring Proceedings No.02/95 (9)/99/RCTY dated 23-06-1999 issued by Respondent No.1 in not following the

APSRTC (CCA) Regulations, 1967, while conducting the enquiry, as arbitrary, illegal and for a consequential direction to the respondents to reinstate the petitioner into service with all consequential benefits.

2. Petitioner, a Conductor in the Andhra Pradesh State Road Transport Corporation (APSRTC), Pulivendula, Cuddapah District, was appointed in the year 1992 and subsequently posted to Rayachoti in 1997. He submits that while he was working in Rayachoti Depot, he was suspended by the Depot Manager, Rayachoti, by Proceedings No.02/95(9)/99/RCTY dated 25-01-1999, on the alleged ground of cash and ticket irregularities and on the same day, the Depot Manager also issued Charge Sheet with the following charges. -

> Charge No.1: "for having collected amount of Rs.38-00 from a batch of two passengers who boarded the bus at Galiveedu and bound for Kadiri ex-stages 7 to 16 towards luggage instead of collecting requisite amount of Rs.16-00 only. Thus you have collected an amount of Rs.22-00 excess to the correct luggage charges as illegal gratification which constitutes misconduct under Reg.28 (x) of APSRTC Employees (Conduct) Regulations, 1963.
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> Charge No.2: for having mis-behaved with TTIs at the time of check ie., when the TTIs questioned about illegal gratification of Rs.22-00 from a batch of Two passengers who boarded the bus at Galiveedu and bound for Kadiri ex-stages 7 to 16 along with 8 bags of rice you have stated
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> Which is misconduct under Reg.28 (viii) of APSRTC Employees (Conduct) Regulations 1963".

3. It is the case of the petitioner that he submitted detailed explanation to the above charges within the prescribed time stating that while he was on duty on Service No. APO 9Z 9992 on the route of Rayachoty to Kadri, 2 passengers boarded the bus at Galiveedu stage along with 8 rice bags to travel upto Kadri at stages 7-16 for which he issued 2 tickets of Rs.11.00 denomination towards passenger tickets and issued 32 tickets of Rs.0.50 denomination amount to Rs.16/- totaling Rs.38/-. Petitioner submits that after receiving an amount of Rs.100/- from the passengers, he had collected an amount of Rs.38/- and returned the remaining amount to them before reaching state 8, but did not collect Rs.60/- as stated by the Depot Manager, in the notice. He further submits that the passengers had given a false statement to the TTI that he had kept an amount of Rs.22/- with him without returning the same. Petitioner also denied misbehaving with the TTI.

4. Heard the learned counsel for the petitioner and the learned Standing Counsel

appearing on behalf of the respondents.

5. Learned counsel for the petitioner contends that since enquiry has not been conducted properly and as the act of the petitioner does not cause any loss to APSRTC, the punishment imposed on the petitioner, namely, removal from service, is disproportionate to the charges leveled against him.

6 . On the other hand, learned Standing Counsel appearing for the respondents contends that the petitioner has to approach the Labour Court, and this Court under Article 226 of the Constitution of India, cannot re-appreciate the evidence. He further contends that as per the judgment of the Supreme Court in **Regional Manager, Rajasthan SRTC v. Sohan Lal**, this Court cannot interfere with the punishment imposed by the disciplinary authority unless it shown that the punishment imposed is disproportionate to the proved misconduct.

7. Neither the learned counsel for the petitioner nor the learned Standing Counsel for the respondents produced the report of the enquiry officer. Even the material papers filed by the petitioner do not disclose anything.

8. The charges leveled against the petitioner are (i) collecting an amount of Rs.38-00 from a batch of two passengers who boarded the bus at Galiveedu and bound for Kadiri ex-stages 7 to 16 towards luggage instead of collecting requisite amount of Rs.16-00 only, thereby collecting an amount of Rs.22-00 excess to the correct luggage charges as illegal gratification which constitutes misconduct under Reg.28 (x) of APSRTC Employees (Conduct) Regulations, 1963, and (ii) for having mis-behaved with TTIs at the time of check ie., when the TTIs questioned about illegal gratification of Rs.22-00. Thereafter, notice was also issued to the petitioner, for which he submitted his explanation. His explanation was considered and the impugned order was passed, removing him from service. Aggrieved thereby, petitioner carried the matter in appeal before the Deputy Chief Traffic Manager, Cuddapah, who rejected the same by his order dated 17-09-1999. Further, the matter was carried by the petitioner in appeal before the Regional Manager, Cuddapah Region, which was also rejected.

9. Learned counsel for the petitioner, except stating that the punishment imposed on the petitioner is disproportionate to the charges leveled against him and the enquiry has not been conducted properly, could not demonstrate before this Court how the punishment imposed is disproportionate. In this writ petition, though challenge has been made with regard to the manner of conducting enquiry, nothing has been stated except a mere allegation that the corporation has not followed the principles of natural justice. The only question remains to be answered is whether the punishment imposed is disproportionate to the proved misconduct. Since it is a cash and ticket irregularity, the petitioner was removed from service. The same has been upheld in the appeal as well as the review filed by the petitioner. Once the offence is proved, notwithstanding the amount involved – whether paltry or substantial, the offender deserves punishment. In **U.P.S.R.T.C. V. Mahendra Nath Tiwari,** the Apex Court held that *even if it be only one passenger to whom the bus conductor has not*

issued ticket, it amounts to clear violation of duty imposed on him and a grave charge against him who is really in position of trust as far as employer is concerned and it constitutes a grave charge sufficient to dismiss him from service and the extent of pecuniary loss caused to his employer is not the relevant criteria. Therefore, I find no reason to interfere with the impugned order.

10. The writ petition is accordingly dismissed. No costs.

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N.V. RAMANA, J.

December 8, 2005

MRR